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FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

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BY D. MARK JONES, CLERK  
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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA, : INDICTMENT

Plaintiff, : VIO.

vs. :

DEWEY C. MacKAY, III, :

Defendant. :

21 U.S.C. § 841(a)(1) and  
(b)(1)(C) [Distribution of a  
Schedule II Controlled  
Substance Resulting in  
Death]  
(Count 1)

21 U.S.C. § 841(a)(1) and  
(b)(1)(E) [Distribution of a  
Schedule III Controlled  
Substance Resulting in  
Death]  
(Count 2)

Case: 1:10cr00094  
Assigned To : Kimball, Dale A.  
Assign. Date : 8/5/2010  
Description: USA v.

: 21 U.S.C. § 841(a)(1) and  
: (b)(1)(C) [Distribution of a  
: Schedule II Controlled  
: Substance]  
: (Counts 8-14, 18-66, 76-84,  
: 91-101, 110-124)  
:  
: 21 U.S.C. § 841(a)(1) and  
: (b)(1)(E) [Distribution of a  
: Schedule III Controlled  
: Substance]  
: (Counts 3-7, 67-75, 85-90,  
: 102-109, 125-130)  
:  
: 21 U.S.C. § 843(b) [Use of a  
: Communication Facility in a  
: Drug Trafficking Offense]  
: (Counts 15, 16, 17)  
:  
: 21 U.S.C. § 853 [Criminal  
: Forfeiture]

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The Grand Jury charges:

### **INTRODUCTION**

At all times relevant to this Indictment:

*A. General Background.*

1. The Defendant, Dewey C. MacKay, III ("MacKay") is an orthopedic surgeon licensed to practice in the State of Utah, and resides in Brigham City, Utah. From an exact date unknown to the Grand Jury, but at least by October

1981, and through at least the present, MacKay held himself out to the public as a medical doctor. From about October 1981 to on or about March 1, 2007, MacKay practiced orthopedic medicine from a clinic in Brigham City, Utah. Two other physicians eventually joined this practice. On or about March 1, 2007, MacKay moved his practice and has a solo practice in Brigham City, Utah.

2. The Controlled Substances Act ("CSA") governs the manufacture, distribution, and dispensation of controlled substances in the United States. The CSA and the Code of Federal Regulations ("CFR") contain definitions relevant to this Indictment, some of which are set forth below.

3. The term "controlled substance" means a drug or other substance, or immediate precursor, included in Schedule I, II, III, IV and V, as designated by Title 21 U.S.C. § 802(6), and the CFR.

4. The term "Schedule II" means the drug or other substance has a high potential for abuse; the drug has a currently accepted medical use with severe restriction; and abuse of the drug or other substances may lead to severe psychological or physical dependence.

5. The term "Schedule III" means the drug or other substance has less potential for abuse than the drugs or other substances in Schedules I and II; the drug has a currently accepted medical use in the United States; and abuse of the

drug or other substances may lead to high psychological or moderate to low physical dependence.

6. The term "dispense" means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery. The term "dispenser" means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

7. The term "distribute" means to deliver (other than by administering or dispensing) a controlled substance or a listed chemical. The term "distributor" means a person who so delivers a controlled substance or a listed chemical.

8. The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

9. The Drug Enforcement Administration ("DEA") issues registration numbers to qualifying doctors, who thereby are authorized to dispense Schedule II, III, IV and V controlled substances.

10. A prescription for a controlled substance violates the Controlled Substances Act and the CFR unless it is issued by a licensed professional and DEA registrant in the usual course of professional practice.

*B. Involved Controlled Substances.*

11. The following controlled substances are involved in the charges alleged herein:

(a) Oxycodone products: Oxycodone is a Schedule II narcotic analgesic, and is one of the most widely used OPIOID ANALGESICS (drugs meant for the treatment of severe, acute pain,) in the United States. It is usually used and formulated in conjunction with the analgesics aspirin or acetaminophen.

Oxycodone is a semi-synthetic prescription drug with pain-relieving properties similar to those of morphine and codeine. Although commonly known as an opioid analgesic, it is also known as a narcotic analgesic. Commonly prescribed or brand-names of prescription drugs containing Oxycodone include: OxyContin, Endocet, Endocodone, Endodan, OxyIR, Percocet, Percodan, Percodan-Demi, Percolone, Roxicet, Roxicodone, Roxilox, Roxiprin and Tylox.

(b) Methadone: Methadone is a Schedule II Controlled Substance whose active ingredient is Methadone Hydrochloride. It is a synthetic narcotic analgesic with multiple actions similar to those of morphine. Methadone comes in several different dosages and in multiple brands to include Dolophine, Methadose and as a

generic drug. Methadone is approved for use as a pain medication in strengths up to 10 milligrams. Methadone in strengths above 10 milligrams is restricted to use in approved and registered addiction treatment settings.

(c) MS Contin/Morphine: MS Contin is listed as a Schedule II Narcotic, with the main substance listed as Morphine. MS Contin contains Morphine Sulfate, an opioid agonist and a Schedule II controlled substance, with an abuse potential similar to other opioid analgesics. Morphine can be abused in a manner similar to other opioid agonists, legal or illicit. MS Contin tablets are a controlled-release oral formulation of morphine sulfate indicated for the management of moderate to severe pain when a continuous opioid analgesic is needed for an extended period of time. Morphine is a pure opioid agonist whose principal therapeutic action is analgesia.

(d) Hydrocodone products: Hydrocodone is a Schedule III narcotic analgesic, and is one of the most widely used OPIOID ANALGESICS (drugs meant for the treatment of moderate to severe pain,) in the United States. It is generally used and formulated in conjunction with the analgesic acetaminophen. Hydrocodone is a semi-synthetic prescription drug with pain-relieving properties similar to those of codeine. Although commonly known as an opioid analgesic, it is also known as a narcotic analgesic. Commonly prescribed or brand-names of prescription drugs containing Hydrocodone include: Lortab, Lorcet, Vicodin, Vicoprofen, Tussionex, and Norco.

12. During the course of his medical practice, MacKay unlawfully distributed or dispensed various Schedule II and III controlled substances to patients without a legitimate medical purpose and outside of the usual course of professional treatment.

13. During the course of his medical practice, MacKay routinely and regularly issued prescriptions for Schedule II and III Controlled Substances, including Oxycontin, Oxycodone, Methadone, Percocet, Hydrocodone, and Lortab without conducting a medically-sufficient examination. Many patient visits consisted largely of an inquiry by MacKay as to whether the patient wanted a refill and what medication the patient wanted, and the issuance of a new prescription for controlled substances to the patient without conducting a medical examination. Many new patients received a limited or no physical exam to diagnose the cause of the patient's reported pain. From about 2005 through February, 2007, MacKay saw and prescribed to as many as 100-120 patients per eight-hour day, and from March, 2007 through at least October, 2009, MacKay saw and prescribed to as many as 59 patients per four-to-five-hour day.

14. According to records maintained by the State of Utah, between June 1, 2005 and October 30, 2009, MacKay issued 20,612 prescriptions for Hydrocodone products of all strengths totaling 1,931,293 Hydrocodone pills, and issued 17,140 prescriptions for Oxycodone products of all strengths totaling 1,587,384 pills. Between January 1, 2005 and June 5, 2008, MacKay had the fourth-highest

volume of prescriptions for Oxycodone products in the State of Utah, and the highest volume of prescriptions for Hydrocodone products in the State of Utah.

COUNT 1

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about May 3, 2006, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to D.L.W., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit, 60 (sixty) 10-milligram strength Oxycodone tablets (also known Percocet and Endocet), and death having resulted from the use of such substance, all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 2

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.



2. On or about May 3, 2006, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to D.L.W., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule III Controlled Substance within the meaning of 21 U.S.C. § 812, to wit, 90 (ninety) 10-milligram strength Hydrocodone tablets (also known Lortab), and death having resulted from the use of such substance, all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(E).

COUNTS 3-7

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to M.R., an individual whose identity is known to the Grand Jury, a mixture and

substance containing a detectable amount of a Schedule III Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
3	August 10, 2005	Hydrocodone (Lortab)	10 mg./90
4	October 9, 2007	Hydrocodone (Lortab)	10 mg./90
5	November 27, 2007	Hydrocodone (Lortab)	10 mg./90
6	December 24, 2007	Hydrocodone (Lortab)	10 mg./90
7	January 29, 2008	Hydrocodone (Lortab)	10 mg./90

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(E).

COUNTS 8-14

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.
2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,  
the Defendant herein, did knowingly and intentionally distribute and dispense to K.D. a/k/a K.P., an individual whose identity is known to the Grand Jury, a

mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
8	September 23, 2006	Oxycodone (Endocet)	7.5 mg./90
9	March 10, 2008	Oxycodone	30 mg./150
10	May 12, 2008	Oxycontin	20 mg./90
11	November 3, 2008	Oxycontin	40 mg./90
12	November 24, 2008	Oxycodone	30 mg./60
13	December 1, 2008	Oxycontin	40 mg./90
14	December 22, 2008	Oxycontin	40 mg./90

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 15

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about September 23, 2006, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally use a communication facility, to wit, the telephone, in committing or in causing or facilitating the commission of acts constituting a felony under the Controlled Substances Act, that is, the distribution and dispensing of controlled substance in violation of Title 21 U.S.C. § 841(a)(1); all in violation of Title 21 U.S.C. § 843(b).

COUNT 16

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about March 10, 2008, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally use a communication facility, to wit, the telephone, in committing or in causing or facilitating the commission of acts constituting a felony under the Controlled Substances Act, that is, the distribution and dispensing of controlled substance in violation of Title 21 U.S.C. § 841(a)(1); all in violation of Title 21 U.S.C. § 843(b).

COUNT 17

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about May 12, 2008, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally use a communication facility, to wit, the telephone, in committing or in causing or facilitating the commission of acts constituting a felony under the Controlled Substances Act, that is, the distribution and dispensing of controlled substance in violation of Title 21 U.S.C. § 841(a)(1); all in violation of Title 21 U.S.C. § 843(b).

COUNTS 18-26

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to S.B., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
18	April 14, 2006	Oxycodone (Endocet)	7.5 mg./60
19	April 19, 2006	Oxycodone (Percocet)	7.5 mg./60
20	April 28, 2006	Oxycodone	7.5 mg./60
21	May 5, 2006	Oxycodone (Percocet)	7.5 mg./90
22	May 24, 2006	Oxycodone (Percocet)	10 mg./120
23	September 5, 2006	Oxycodone (Endocet)	10 mg./120
24	September 16, 2006	Oxycodone (Oxycontin)	20 mg./90
25	October 30, 2006	Oxycodone (Oxycontin)	40 mg./90
26	May 7, 2008	Oxycontin	40 mg./90

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

#### COUNTS 27-35

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to K.B., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
27	June 14, 2006	Oxycodone (Oxycontin)	20 mg./90
28	September 18, 2006	Oxycodone (Oxycontin)	40 mg./90
29	December 4, 2006	Oxycontin	40 mg./90
30	January 22, 2007	Endocet (Percocet)	10 mg./60
31	March 13, 2007	Oxycontin	40 mg./90
32	June 7, 2007	Oxycontin	20 mg./60
33	August 20, 2007	Oxycontin	40 mg./90
34	November 8, 2007	Oxycodone	30 mg./90
35	May 22, 2008	Oxycodone	30 mg./180

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNTS 36-42

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to B.R.C., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
36	July 28, 2006	Endocet (Percocet)	7.5 mg./60
37	February 14, 2007	Oxycodone (Percocet)	10 mg./90
38	March 14, 2007	Oxycodone (Percocet)	10 mg./120
39	July 30, 2007	Oxycodone	15 mg./90
40	October 1, 2007	Oxycodone	15 mg./120
41	January 29, 2008	Oxycodone	15 mg./120
42	April 30, 2008	Oxycodone	30 mg./120

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).



COUNTS 43-54

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to J.C.#1, an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
43	October 31, 2005	Endocet (Percocet)	10 mg./90
44	November 30, 2005	Oxycodone (Oxycontin)	40 mg./90
45	February 27, 2006	Oxycodone (Oxycontin)	40 mg./90
46	August 14, 2006	Oxycodone (Oxycontin)	40 mg./90
47	August 8, 2007	Oxycodone (Oxycontin)	40 mg./90
48	November 8, 2007	Oxycodone (Oxycontin)	40 mg./90
49	December 19, 2007	Oxycontin	40 mg./90
50	May 12, 2008	Oxycontin	40 mg./90
51	February 4, 2009	Morphine SO4	30 mg./60
52	February 9, 2009	Oxycodone	30 mg./180

53	August 11, 2009	Oxycodone	30 mg./180
54	August 31, 2009	Oxycontin	40 mg./60

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

### COUNTS 55-58

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to J.C.#2, an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
55	April 5, 2007	Oxycodone (Oxycontin)	40 mg./90
56	July 12, 2007	Oxycontin	40 mg./90
57	March 12, 2008	Oxycontin	40 mg./90
58	April 9, 2008	Oxycontin	40 mg./90

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNTS 59-66

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to J.D., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
59	November 29, 2006	MSContin	30 mg./30
60	April 18, 2007	MSContin	30 mg./60
61	September 11, 2007	MSContin	30 mg./90
62	February 20, 2008	MSContin	30 mg./90
63	April 17, 2008	MSContin	30 mg./120
64	January 7, 2009	MSContin	30 mg./60

65	September 9, 2009	Methadone	10 mg./150
66	September 30, 2009	Methadone	10 mg./150

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

### COUNTS 67-75

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to T.M., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule III Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
67	September 2, 2005	Hydrocodone (Lortab)	7.5 mg./180
68	November 21, 2005	Hydrocodone (Lortab)	10 mg./180
69	December 27, 2006	Hydrocodone (Lortab)	10 mg./180
70	April 25, 2007	Hydrocodone (Lortab)	10 mg./180

71	December 24, 2007	Hydrocodone (Lortab)	10 mg./180
72	January 31, 2008	Hydrocodone (Lortab)	10 mg./180
73	May 28, 2008	Hydrocodone (Lortab)	10 mg./180
74	December 22, 2008	Hydrocodone	10 mg./180
75	April 23, 2009	Hydrocodone	10 mg./180

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(E).

#### COUNTS 76-84

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to A.S., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
76	September 12, 2005	Methadone	10 mg./90

77	November 21, 2005	Methadone	10 mg./90
78	January 30, 2006	Methadone	10 mg./90
79	April 19, 2006	Methadone	10 mg./90
80	April 19, 2006	Oxycodone (Percocet)	10 mg./30
81	August 28, 2007	Methadone	10 mg./90
82	December 5, 2007	Methadone	10 mg./90
83	February 20, 2008	Methadone	10 mg./90
84	April 7, 2008	Methadone	10 mg./120

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

#### COUNTS 85-90

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to K.T. a/k/a K.F., an individual whose identity is known to the Grand Jury, a

mixture and substance containing a detectable amount of a Schedule III Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
85	August 31, 2005	Hydrocodone (Lortab)	7.5 mg./90
86	October 25, 2006	Hydrocodone (Lortab)	7.5 mg./100
87	April 19, 2007	Hydrocodone (Lortab)	7.5 mg./100
88	October 2, 2007	Hydrocodone (Lortab)	7.5 mg./100
89	June 3, 2008	Hydrocodone (Lortab)	7.5 mg./100
90	September 23, 2008	Hydrocodone (Lortab)	7.5 mg./100

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(E).

COUNTS 91-101

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to C.T., an individual whose identity is known to the Grand Jury, a mixture and

substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
91	October 7, 2005	Oxycontin	40 mg./60
92	December 21, 2005	Oxycontin	40 mg./90
93	May 17, 2006	Oxycontin	40 mg./90
94	December 6, 2006	Oxycontin	40 mg./90
95	February 5, 2007	Oxycontin	40 mg./90
96	March 5, 2007	Oxycontin	40 mg./90
97	September 17, 2007	Oxycontin	40 mg./90
98	September 5, 2008	Oxycontin	40 mg./90
99	September 29, 2008	Oxycodone	15 mg./120
100	January 21, 2009	Oxycodone	15 mg./120
101	January 27, 2009	Oxycontin	40 mg./90

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNTS 102-108

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.



2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to J.J., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule III Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
102	June 19, 2006	Hydrocodone (Lortab)	10 mg./60
103	July 10, 2006	Hydrocodone (Lortab)	10 mg./90
104	December 1, 2006	Hydrocodone (Lortab)	10 mg./140
105	April 18, 2007	Hydrocodone (Lortab)	10 mg./120
106	February 26, 2008	Hydrocodone (Lortab)	10 mg./120
107	March 20, 2008	Hydrocodone (Lortab)	10 mg./120
108	November 11, 2008	Hydrocodone	10 mg./120

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(E).

COUNTS 109

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about August 7, 2006, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to J.J., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit, Oxycodone (Percocet), all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNTS 110-116

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to J.W., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
110	February 26, 2007	Oxycontin	40 mg./90
111	March 12, 2007	Oxycontin	40 mg./90
112	May 14, 2007	Oxycontin	40 mg./120
113	December 11, 2007	Oxycontin	40 mg./120
114	January 7, 2008	Oxycontin	40 mg./120
115	January 28, 2008	Oxycontin	40 mg./90
116	May 1, 2008	Methadone	10 mg./120

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

#### COUNTS 117-124

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to R.S., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
117	August 22, 2005	Percocet (Endocet)	10 mg./90
118	September 21, 2005	Percocet (Endocet)	10 mg./120
119	October 19, 2005	Percocet (Endocet)	10 mg./30
120	October 24, 2005	Percocet (Endocet)	10 mg./90
121	July 19, 2006	Oxycodone (Oxycontin)	40 mg./60
123	March 7, 2007	Oxycodone (Oxycontin)	40 mg./90
124	February 11, 2008	Oxycontin	40 mg./90

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNTS 125-130

1. The Grand Jury realleges the allegations of the Introduction portion of this Indictment as though fully set forth herein.

2. On or about the dates set forth below, in the Northern Division of the District of Utah,

DEWEY C. MacKAY, III,

the Defendant herein, did knowingly and intentionally distribute and dispense to C.R., an individual whose identity is known to the Grand Jury, a mixture and substance containing a detectable amount of a Schedule III Controlled Substance within the meaning of 21 U.S.C. § 812 as set forth below:

Count	Date	Controlled Substance	Strength/Number
125	August 22, 2005	Hydrocodone (Lortab)	10 mg./100
126	October 19, 2005	Hydrocodone (Lortab)	10 mg./120
127	July 10, 2007	Hydrocodone (Lortab)	10 mg./150
128	October 1, 2007	Hydrocodone (Lortab)	10 mg./150
129	October 15, 2007	Hydrocodone (Lortab)	10 mg./180
130	November 1, 2007	Hydrocodone	10 mg./180

all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(E).

#### **NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE**

As a result of the felony offense alleged in Counts 1 to 130 of this indictment, the defendant shall forfeit to the United States pursuant to 21 U.S.C. §

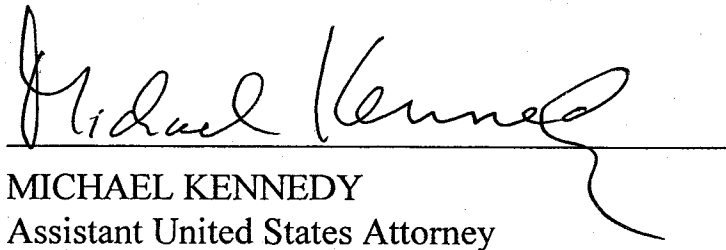
853 any and all property constituting or derived from any proceeds the said defendant obtained directly or indirectly as a result of the said felony offenses and any and all property, real and personal, used or intended to be used in any manner or part to commit and to facilitate the commission of a violation of 21 U.S.C. § 841 (a)(1), and any property traceable thereto.

A TRUE BILL:

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FOREPERSON OF THE GRAND JURY

CARLIE CHRISTENSEN  
United States Attorney



MICHAEL KENNEDY  
Assistant United States Attorney